

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 98-00311-01-CR-W-GAF</b>
	)	
<b>EDWIN R. HINESTROZA,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

Now pending before the Court is Defendant's Motion to Dismiss Count Two or Three on the Grounds of Double Jeopardy. Defendant argues that the potential for multiple punishments of death with respect to Counts Two and Three of the Fourth Superseding Indictment violates the protections afforded by the Double Jeopardy Clause of the Fifth Amendment and violates his rights to a fair trial as guaranteed by the Due Process Clause of the Fifth Amendment.

United States Magistrate Judge Sarah W. Hays issued her Report and Recommendation on September 8, 2005.

Upon careful and independent review of the pending motion, as well as the applicable law, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of United States Magistrate Judge Sarah W. Hays.

Accordingly, it is hereby ORDERED that Defendant's Motion to Dismiss Count Two or Three on the Grounds of Double Jeopardy is overruled and denied.

/s/ Gary A. Fenner  
GARY A. FENNER, JUDGE  
United States District Court

DATED: September 27, 2005